

July 2004

**APPLICATION FOR EXCEPTION TO THE NCLB ONE PERCENT CAP
ON PROFICIENT OR ABOVE SCORES
BASED ON ALTERNATE ACHIEVEMENT STANDARDS**

Accountability under the No Child Left Behind (NCLB) Act for certain students with severe cognitive disabilities is based on performance on the California Alternate Performance Assessment (CAPA), which tests students using an alternate form of California's curriculum standards. For calculating Adequate Yearly Progress (AYP), federal regulations have set a cap of 1.0 percent on the number of students in a local educational agency (LEA) whose scores can be counted as proficient or above based on an alternate assessment using alternate standards. This cap may be exceeded in cases where the LEA provides adequate justification to the state. Absent an exception, proficient or advanced scores above the cap must be counted as not proficient in AYP calculations.

Through this application, the California Department of Education (CDE) is providing LEAs that document justifiable circumstances the opportunity to apply for an exception to the 2003-04 school year (2004 CAPA testing).

Authorization to Grant Exceptions

The CDE is authorized to grant an exception to an LEA, permitting it to exceed the 1.0 percent cap in counting as proficient and advanced for school accountability the scores of students with the most significant cognitive disabilities based on alternate academic achievement standards. The State may grant an exception if the LEA's request is consistent with the conditions outlined in paragraph (c)(2) of section 200.13 of the federal regulations. (34 CFR Part 200 of Title I – Improving the Academic Achievement of the Disadvantaged; Final Rule, section 200.13).

To be eligible for an exception to the 1.0 percent cap, the LEA must:

- Document that the incidence of students with the most significant cognitive disabilities exceeds 1.0 percent of all students in the grades assessed; and
- Explain why the incidence of such students exceeds 1.0 percent of all students in the combined grades assessed.

Small LEAs receive an automatic exception and do not need to complete this application. These LEAs have such a small overall student population that it

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would take only a very few students with significant cognitive disabilities to exceed the 1.0 percent cap. A small LEA is defined as either of the following:

- LEAs with ten or fewer valid CAPA scores in a content area **OR**
- LEAs with five or fewer valid proficient and advanced CAPA scores in a content area

Application Submission Information

Eligible Applicants:

A LEA (school district, direct-funded charter school, or county office of education) that receives a LEA AYP report may submit an application for an exception.

Due Date:

Applications must be postmarked or FAXED and **received by the CDE by August 16, 2004.** Applications received after August 16, 2004 will be considered, but the exception results may not appear on the Internet until after the August 31 release of the 2004 Accountability Progress Reports.

Applications should be sent to:

Assessment, Evaluation, and Support Unit
Special Education Division
California Department of Education
1430 N Street, Suite 2401
Sacramento, CA 95814
ATTN: Deborah Malone, Application for Exception to One Percent Cap
Fax: (916) 327-3730

Questions regarding the application may be directed to Jill Larson at (916) 323-7192 in the Assessment, Evaluation, and Support Unit.

Application For Exception to One Percent Cap

Local Educational Agency:

Mailing Address:

Fax Number:

Contact Person:

Contact Person Telephone Number:

Email of Contact Person:

Date Submitted: _____

Conditions to Apply

A LEA may submit an "Application For Exception to the One Percent Cap" only if it meets one or both of the following criteria. (Check those that apply)

- ☐ The number of licensed children's institutions (LCIs) or other similar community or health organizations located within the LEA have resulted in a large percentage of students with the most significant cognitive disabilities.
- ☐ The LEA has very specialized programs for students with severe disabilities, resulting in a large number of students with the most significant cognitive disabilities in the LEA.

CDE Review of Data

The CDE will review LEA data on file that documents that the incidence of students participating in STAR exceeds 1.0 percent of all students in the combined grades assessed and the LEA's counts of school-age students with disabilities by particular disabilities and classification rates.

Application Narrative (attach additional pages as necessary):

Describe the number and characteristics of the students with the most significant cognitive disabilities in the LEA.

Provide confirmatory data on the number and types of licensed children's institutions (LCIs) or other community programs located in the LEA (such as the names and number of facilities and the numbers and descriptions of the students placed in such facilities) that result in a higher percentage of students with the most significant cognitive disabilities.

Provide confirmatory data and a description of the unique specialized school programs for students with the most significant cognitive disabilities (e.g., programs that have drawn a large number of families of such students to reside in the LEA).

Your narrative must include:

- Name of the LEA
- County-district (CD) code of the LEA
- Detailed justification

Assurances:

The signature of the school superintendent, or the chief administrative official in the case of a direct-funded charter school, on the application constitutes an

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assurance that the LEA is fully and effectively addressing the requirements of 34 CFR Part 200, section 200.6(a)(2)(iii).

- The LEA implements clear and appropriate guidelines to use to determine when a child's significant cognitive disability justifies the alternate assessment based on alternate academic achievement standards.
- Parents are informed that their child will be assessed based on alternate achievement standards, including information about the implications of participation in the alternate assessment.
- Students with the most significant cognitive disabilities are included, to the extent possible, in the general curriculum and assessments aligned with that curriculum.
- The LEA disseminates information and promotes the use of appropriate accommodations to increase the number of students with the most significant cognitive disabilities who are tested against grade-level academic achievement standards.
- Regular and special education teachers and other appropriate staff are knowledgeable about the administration of assessments, including making appropriate use of accommodations for students with the most significant cognitive disabilities.

Typed or Printed Name of Superintendent of Schools or Chief Administrative Official of Charter School:
Signature:
Date of Submission:

For CDE Use Only	Exception Granted: <input type="checkbox"/> YES <input type="checkbox"/> NO
If yes, cap percentage approved:	_____
Time period of exception approved:	_____
Date of approval:	_____
SED Authorizing Signature:	_____
Copies to:	_____

CRITERIA FOR REVIEW AND APPROVAL OF EXCEPTION REQUESTS

- There is clear evidence that the LEA has more than 1.0 percent of its enrolled student population taking the California Alternate Performance Assessment (CAPA).

The CDE will programmatically review Exception Requests in consideration of:

- Documentation submitted by the LEA regarding licensed facilities includes sufficient verifiable information, such as the names of the facilities and the numbers and descriptions of the students placed in such facilities.
- Documentation submitted by the LEA regarding specialized education programs that attract large numbers of students with the most significant cognitive disabilities is credible and persuasive and describes the characteristics and the numbers of students served in such program.
- Submission of a complete application, which includes the original signature of the Superintendent of Schools.

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**CAPA 1.0 PERCENT CAP:
CRITERIA AND METHOD FOR MEETING NCLB REGULATIONS FOR
2004 AYP CALCULATIONS**

The purpose of this document is to describe the criteria and methodology for meeting the requirements of the federal No Child Left Behind (NCLB) regulations concerning alternate assessment standards in determining Adequate Yearly Progress (AYP) based on 2004 statewide testing. The document:

- Describes how the percentage is calculated for determining if a local education agency (LEA) is above the 1.0 percent cap requirements
- Explains how alternate assessment scores that exceed the 1.0 percent cap at the LEA level will be reassigned and allocated among schools and subgroups in the LEA
- Lists the criteria to be used to grant LEA exceptions to the 1.0 percent cap

The Technical Design Group (TDG) for the Public Schools Accountability Act (PSAA) considered these issues. The criteria and methodology described in this paper are based on the TDG's recommendations provided at its January 2004 meeting.¹

Background

The NCLB Act of 2001 requires that states determine AYP for every public school and LEA, based primarily on state assessment systems. Among the central provisions of the law are the requirements that all students, regardless of background, be included in the statewide assessment systems and that statewide assessments be aligned to the same high standards for all students.

On December 9, 2003, the U.S. Department of Education (USED) issued a set of final regulations pursuant to Title I of the NCLB. These regulations address the use of alternate achievement standards and alternate assessments for students with significant cognitive disabilities. The key points of the regulations are:

- The definition of "students with the most significant cognitive disabilities" from the earlier draft regulations is removed and will be determined by the state.
- For students with the most significant cognitive disabilities, states may establish alternate achievement standards and assessments aligned to those standards for AYP.

¹ The PSAA of 1999 (Chapter 3, Statutes of 1999) requires that the Superintendent of Public Instruction (SPI), with approval of the State Board of Education (SBE), develop an Academic Performance Index (API) to measure the performance of schools. The law also provides for an Advisory Committee to assist the SPI and the SBE in the creation of the Index. The Committee established a Technical Design Group (TDG), comprised of educational measurement specialists, to provide guidance on technical issues. The TDG reviewed the issues in this paper at its January 2004 meeting.

CAPA 1.0 PERCENT CRITERIA AND METHODOLOGY

- The scores of these students must be included in the AYP calculations.
- The proficient and advanced scores of these students may be based on the alternate achievement standards and included in the AYP, provided that the scores do not exceed 1.0 percent of all students in the grades assessed at a LEA or state.
- This 1.0 percent cap may be exceeded in cases where a state or LEA provides adequate justification. Absent an exception, proficient and advanced scores above the 1.0 percent cap must be counted as not proficient in AYP calculations.
- For the proficient and advanced scores above the LEA 1.0 percent cap that are counted as not proficient, the state must include those non-proficient scores in the calculations of AYP in each applicable subgroup at the school, LEA, and state level. States may not count those scores as proficient in determining AYP at the school, LEA, or state level and may not count those scores as proficient in the subgroups to which they belong.
- States must inform parents of the actual academic achievement levels of their students.

The final regulations became effective January 8, 2004 for the 2004 AYP calculations. They do not change AYP requirements for the 2003 AYP calculations, which were determined in the fall of 2003 according to transitional authority granted to California under the proposed regulations.

In response to the federal requirements of the 1997 Individuals with Disabilities Education Act (IDEA) and the 2001 NCLB, California developed the California Alternate Performance Assessment (CAPA), an alternate assessment for students with significant cognitive disabilities who are unable to participate in the general statewide assessments, even with accommodations or modifications. The CAPA was administered for the first time in the spring of 2003.

For the 2003 AYP, transitional authority allowed up to 1.0 percent of CAPA test takers at the LEA and state levels to use alternate assessment standards. However, directions for how to account for scores above 1.0 percent were not provided by the USED. Consequently, the California Department of Education (CDE) only reported whether LEAs exceeded the 1.0 percent cap as it was understood at the time.² Based upon this formula for the 2003 AYP, 104 school districts and county offices of education (COEs) exceeded the 1.0 percent cap. Approximately half of the 104 were COEs. Statewide the percentage of CAPA test takers was 0.7 percent. Direct-funded charter schools were treated as LEAs.

Applying the 2004 final regulations criteria to the 2003 AYP data, the CDE produced a list of 85 LEAs with proficient and advanced scores that exceeded the 1.0 percent cap. The majority (59 percent) of the LEAs on the list were county offices of education. Direct-funded charter schools were treated as LEAs.

² 2003 AYP reported the percent of CAPA test takers, which was defined as the number of test takers on the CAPA divided by the STAR enrollment on the first day of testing. If the percentage exceeded 1.0 of all students in the grades assessed, the LEA report showed a "Yes" in the "Above 1.0" column.

How the percentage is calculated for determining if an LEA is above the 1.0 percent cap requirements

For 2004, Section 200.13 (c)(1) of the final regulations specifies that a state “may include the proficient and advanced scores of students with the most significant cognitive disabilities based on the alternate academic achievement standards, provided that the number of those students who score at the proficient or advanced level on those alternate achievement standards at the LEA and at the State levels, separately, does not exceed 1.0 percent of all students in the grades assessed in reading/language arts and in mathematics.” Section 200.13(c)(4)(i) of the final regulations also clarifies that a state must include the scores of all students with the most significant cognitive disabilities who have been in the LEA or state for a full academic year in determining AYP.

Method. Based on these requirements, the percentage is calculated as the number of proficient and advanced scores on CAPA in a content area, less mobile students, divided by the STAR enrollment on the first day of testing, less mobile students. Mobile students are those who first enrolled in the LEA after the October CBEDS date of the school year in which testing occurred.

The following example shows how the percentage is calculated for determining if a LEA is above the 1.0 percent cap.

Example of Method for Numerator and Denominator in Calculating CAPA Rate The rate is calculated separately for English-language arts (ELA) and mathematics.

Example of an LEA with the following data:

4960 students enrolled, first day of testing
60 mobile students enrolled, first day of testing
27 CAPA scores at proficient or advanced in ELA
5 mobile students with CAPA scores at proficient or advanced in ELA

Numerator	Denominator	Rate
Proficient and advanced on CAPA, less mobile students, in ELA Example: $27 - 5 = 22$	STAR enrollment first day of testing, less mobile students Example: $4960 - 60 = 4900$	For ELA $22 / 4900 = 0.448\%$

Note: Mobile students are those first enrolled in the school district after the October CBEDS date.

This example shows the rate for ELA only. The LEA in this example is below the CAPA 1.0 percent rate for ELA because 0.448 percent is less than 1.0 percent.

This method was adopted because it would produce the lowest rate allowable and still maintain consistency between the numerator and denominator. The numerator only includes those scores used in calculating the percent proficient or above, and the denominator includes all students in the grades assessed. There is no rounding in determining the proportion of test takers (i.e., 1.09 is not 1.1 and a proportion of a student would not be considered one student).

How alternate assessment scores that exceed the 1.0 percent cap at the LEA level will be reassigned and allocated among schools and subgroups in the LEA

Section 200.13(c)(4)(ii) of the final regulations specify that, absent an exception, proficient or advanced alternate assessment scores that exceed the LEA 1.0 percent cap must be counted as not proficient in AYP calculations of the applicable schools, LEA, and state. Two issues were considered in determining an optimal method for meeting these requirements. One issue was how to establish the most equitable method for “allocating” among the schools and subgroups within those schools the number of scores that would need to be “reassigned,” i.e., changed from proficient or advanced to not proficient for AYP calculations. Since the 1.0 percent cap is at the LEA rather than the school level, decisions must be made about how many scores at each school and each subgroup should be reassigned. Another issue was how to equitably identify the particular student records to be reassigned. This involves ensuring that reassigned scores are distributed as fairly as possible across students in a subgroup, school, and/or LEA. It should be noted that the reassignments only are applicable to AYP calculations at the school, LEA, and state levels and would not change the score a student receives.

Method. To reassign scores in a LEA that is above the 1.0 percent cap, the CDE first reassigns the proficient and advanced scores in the “school district program” CDS code by scale score, starting with the lowest score, and continues until the LEA is below the 1.0 percent cap. If any number of scores to be reassigned are remaining, the CDE allocates the number of reassignments to schools, based on percentage of proficient and advanced scores. Scores at each school are then reassigned by scale score, starting with the lowest score.

Automatic Exception for Small LEAs. Small LEAs will be granted an automatic exception. “Small LEAs” are defined as:

- LEAs with ten or fewer valid CAPA scores in a content area would be granted an automatic exception.
- LEAs with five or fewer valid proficient and advanced CAPA scores in a content area would be granted an automatic exception.

No Effect on API Scores. Reassignment of scores for AYP purposes will not affect scores used to calculate the Academic Performance Index (API).

A detailed example of the method for reassigning scores is shown on the following page.

Example of Method for Reassigning and Reallocating CAPA Scores that Exceed the 1.0 Percent Cap

Example LEA: School District with "school district program" CDS code and 5 schools

10,000 enrollment first day of testing less mobile students

105 CAPA proficient and advanced less mobile students = 1.05% (105/10,000)

5 scores to be reassigned (i.e., changed from proficient or advanced to not proficient)

Step 1: Reassign scores in school district program by lowest scale score

In this example, 5 students in the district program took the CAPA. One student scored proficient, 1 student scored advanced, and 3 students scored below proficient. The lowest proficient or advanced scale scores are reassigned first. In this example, these scores are reassigned to not proficient for AYP calculations (does not affect score student receives). In addition to the 2 scores reassigned in the district program, 3 more scores need to be reassigned at the school level in this district in order for the school district to be below the 1.0 percent cap. If the LEA has no district program, disregard Step 1 and go directly to Step 2.

District Program	CAPA Scale Score	
Student S	37	Reassign Student S from Proficient to Not Proficient
Student T	42	Reassign Student T from Advanced to Not Proficient

Step 2: Determine reassignments in schools in the LEA

Determine school reassignments by the highest percentage of proficient and advanced scores across schools. In this example, School Z has the highest percentage of proficient and advanced and is allocated the third reassignment. Its percentage of proficient and advanced is recalculated. The next 2 reassignments are allocated in the same way. In this example, School Z needs to reassign 2 scores, and School Y needs to reassign 1 score in order for the school district to be below the 1.0 percent cap. If two or more schools have the same percentage of proficient and advanced, allocate reassignments according to CDS code, starting with the lowest CDS code.

	Enrollment 1st day, less mobile	CAPA Advanced and Proficient less mobile less District Program reassignments		3rd Score to be Reassigned: Allocate to School Z		4th Score to be Reassigned: Allocate to School Z		5th Score to be Reassigned: Allocate to School Y	
		n	%	B-1	recalc	B-1-1	recalc	B-1-1-1	recalc
	A	B	B/A						
School V	2,437	19	0.78%	19	0.78%	19	0.78%	19	0.78%
School W	4,879	37	0.76%	37	0.76%	37	0.76%	37	0.76%
School X	489	5	1.02%	5	1.02%	5	1.02%	5	1.02%
School Y	974	18	1.85%	18	1.85%	18	1.85%	17	1.75%
School Z	1,221	24	1.97%	23	1.88%	22	1.80%	22	1.80%
District	10,000	103	1.03%	102	1.02%	101	1.01%	100	1.00%

Step 3: Reassign the school scores by lowest scale score

In this example, School Z needs to reassign 2 scores. At this school, 15 students scored proficient, and 9 students scored advanced. Five of the 15 who score proficient are shown below. The lowest proficient or advanced scale scores are reassigned first.

Then do Step 3 for School Y.

	CAPA Scale Score	
Student F	35	Reassign Student F from Proficient to Not Proficient
Student G	36	Reassign Student G from Proficient to Not Proficient
Student H	37	
Student I	38	
Student J	40	

Step 4: Recalculate AYP for all subgroups, schools, LEA, and the state

NOTE: The scale score range of CAPA is 15-60; proficient and advanced scale score range is 35-60.

Criteria to be used to grant LEA exceptions to the 1.0 percent cap

Section 200.13(c)(3) of the final regulations specifies that, at the request of an LEA, the state may grant an exception to an LEA permitting it to exceed the 1.0 percent cap. The state must use criteria consistent with that described in the regulations applicable to a state request for an exception (Section 200.13(c)(2)). The state must regularly review whether an LEA's exception to the 1.0 percent cap is still warranted.

Based upon criteria that a state must meet, an LEA exception request will be evaluated on the extent to which the following criteria are met:

- There is clear evidence that the LEA has more than 1.0 percent of its enrolled student population taking the California Alternate Performance Assessment (CAPA).

The CDE will programmatically review Exception Requests in consideration of:

- Documentation submitted by the LEA regarding licensed facilities includes sufficient verifiable information, such as the names of the facilities and the numbers and descriptions of the students placed in such facilities.
- Documentation submitted by the LEA regarding specialized education programs that attract large numbers of students with the most significant cognitive disabilities is credible and persuasive and describes the characteristics and the numbers of students served in such program.
- Submission of a complete application, which includes the original signature of the Superintendent of Schools.

The signature of the school superintendent, or the chief administrative official in the case of a direct-funded charter school, on the application constitutes an assurance that the LEA is fully and effectively addressing the requirements of 34 CFR Part 200, section 200.6(a)(2)(iii):

- The LEA implements clear and appropriate guidelines to use to determine when a child's significant cognitive disability justifies the alternate assessment based on alternate academic achievement standards.
- Parents are informed that their child will be assessed based on alternate achievement standards, including information about the implications of participation in the alternate assessment.
- Students with the most significant cognitive disabilities are included, to the extent possible, in the general curriculum and assessments aligned with that curriculum.

Attachment B

CAPA 1.0 PERCENT CRITERIA AND METHODOLOGY

- The LEA disseminates information and promotes the use of appropriate accommodations to increase the number of students with the most significant cognitive disabilities who are tested against grade-level academic achievement standards.
- Regular and special education teachers and other appropriate staff are knowledgeable about the administration of assessments, including making appropriate use of accommodations for students with the most significant cognitive disabilities.